

March 19, 2004

Shane Martin  
812 Nelson Avenue  
Wenatchee, WA 98801

Dear Mr. Martin,

I am writing to follow up on the complaint to you filed with the State Board of Health under RCW 70.05.120. Specifically, I wanted to respond to Secretary Mary Selecky's letter dated February 19, 2004 and your subsequent e-mails. Let me assure you that I understand your concerns. The Board takes seriously all complaints brought to its attention. RCW 70.05.120 states the Board shall hold a hearing if a preliminary investigation finds it is warranted. The statute does not define the nature of a preliminary investigation—that is what we are trying to determine at this stage.

Your e-mail states, "I want the particular violations outlined in my complaint to be investigated in addition to the items listed in Mary Selecky's letter." Secretary Selecky's letter outlines the broad scope of the audit and is silent on whether it will include a review of the specific violations alleged in your complaint. The Department has subsequently assured the Board that the audit will examine those allegations and that the auditor will be able to report back to me on whether there was improper enforcement of the Board rules you mention in the facilities you listed. Based on this assurance, I am convinced the audit can serve as a suitably robust preliminary investigation.

As you point out, the Department of Health does not have the authority to enforce RCW 70.05.120, but the Department's audit will provide sufficient information for the Board to determine whether to hold a hearing and consider further action.

RCW 70.05.120 applies only to instances of "failure of the local health officer or administrative officer to carry out the laws or the rules and regulations concerning public health." The Board has no authority to act on a failure to follow accepted standards of practice or the dubious application of local discretion. Because of this, the Department's audit may be more relevant to some elements of your complaint than an investigation conducted solely by the Board. I have asked the Department to report to me on any audit findings that reflect a failure to implement Board rule.

I hope this addresses your concerns. If not, please contact Craig McLaughlin, the Board's acting executive director, at (360) 236-4106 or [craig.mclaughlin@doh.wa.gov](mailto:craig.mclaughlin@doh.wa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lake", with a stylized, flowing script.

Linda Lake, Chair  
Washington State Board of Health

cc: Mary Selecky, Department of Health  
Janice Adair, Department of Health  
Melissa Burke-Cain, Attorney General's Office  
Barry Kling, Chelan Douglas Health District